

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13002 OF 2017
WITH
CIVIL APPLICATION NO.2675 OF 2017

Kartik Chandra Maharana

...Petitioner

vs.

Reena Kartik Maharana

...Respondent

Mr. Jitendra Oak I/b. Ms. Tejashree Joshi, for the Petitioner

Mr. S.J. Mishra a/w. Pushpa Tiwari i/b.SRS Legal, for Respondent

Mr. Kartik C. Maharana, the Petitioner present in Court.

CORAM : M. S. SONAK, J.

DATE : DECEMBER 05, 2018

PC.

. Heard Mr. Oak, learned counsel for the Petitioner and
Mr. Mishra, learned counsel for the Respondent.

2. The challenge in this Petition is to the order dated 18th
May, 2017 by which the Family Court has directed the Petitioner to
pay the interim maintenance of Rs. 60,000/- p.m to the
Respondent-wife.

3. Mr. Oak, learned counsel for the Petitioner submits that
the impugned order itself records that the Petitioner's salary is Rs.
1,32,600/- p.m. He submits that 1/3 of this amount would come
to Rs. 43,000/- or there above. The learned Family Court, therefore
erred in the award of interim maintenance of Rs. 60,000/- in
favour of Respondent-wife.

4. Mr. Oak, submits that merely because there is a matrimonial dispute, the Petitioner ought not to be precluded from making investments towards the provident fund or other saving instruments. He submits that the Petitioner is due to retire within 3 years and the Petitioner has to also take care of his future interests. He submits that learned Family Court clearly erred in observing that the Petitioner is more interested in his saving or in his luxuries than paying maintenance towards the wife. He submits that there is absolutely no material on record to suggest that the Petitioner is spending amount toward luxuries. He submits that the interim maintenance of Rs. 60,000/- p.m is exorbitant and therefore warrants interference.

5. Mr. Kartik, learned counsel for the Respondent-wife submits that the Petitioner is high ranking officer earning almost about 2.25 lakhs p.m. He submits that the Petitioner in order to avoid payment of maintenance had suddenly commenced increasing his savings and investments which is clearly impermissible. He submits that the Petitioner has 2 cars and a bungalow. He submits that the Petitioner has been granted residential accommodation by his employer. He points out that the Petitioner has no other liabilities and when considered from this

context, the interim maintenance of Rs. 60,000/- p.m is completely legitimate.

6. Considering the rival submissions and upon perusal of the material on record, there is no case made out to interfere with the award of interim maintenance. The Family Court has adverted to the correct principles in such matters. The Family Court has noted that the Respondent has no income of her own and therefore, it is not unreasonable to proceed on the basis of the interim maintenance now awarded to enable her to maintain the same life style which she was accustomed before the relation between the parties were strained. The material on record suggests that the Petitioner has not been paying any maintenance to the Respondent-wife from July, 2014. In terms of the impugned order the maintenance has been awarded from April, 2016. This means that between July, 2014 to April, 2016 no payments have been received by the Respondent-wife.

7. From the material on record, the Family Court has drawn correct inference as regards the financial status of the parties. The question is not that as to whether the Respondent wife is some how or either able to maintain herself with Rs. 43,000/- p.m. but the question is whether she is able to achieve at least

similar life style to which she was accustomed before the relationship between the parties become strained.

8. Considering that the Petitioner has 2 cars and bungalow which also requires sufficient amount for maintenance, there is nothing unreasonable in the award of Rs. 60,000/- by way of maintenance to the Respondent-wife. In the absence of any jurisdictional error or unreasonable approach, it is not for the writ Court to substitute in its opinion in such matters as if this Court were deciding the matter for the first time.

9. The circumstances that the Petitioner is due to retire in 3 years, at least at present is not relevant. Upon retirement it is always be open for the Petitioner to seek variation by placing true and correct particulars as regards his retiral benefits before the Family Court. Suffice to note that on this ground, it is not necessary to interfere the impugned order at least at this stage.

10. For all the aforesaid reasons, this Petition is dismissed.

11. There shall be no order as to the costs.

12. In view of above, Civil Application is also disposed of.

(M. S. SONAK, J.)